

TITLE 33
EDUCATION

CHAPTER 55
IDAHO DIGITAL LEARNING ACADEMY

33-5501. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Digital Learning Academy Act of 2002."

[33-5501, added 2002, ch. 105, sec. 1, p. 285.]

33-5502. CREATION -- LEGISLATIVE FINDINGS -- GOAL. (1) There is hereby created the Idaho digital learning academy, a public school-choice learning environment which joins the best technology with the best instructional practices. The Idaho digital learning academy as provided for in this chapter, is not a single department of state government unto itself, nor is it a part of any of the twenty (20) departments of state government authorized by section 20, article IV, of the constitution of the state of Idaho, or of the departments prescribed in section [67-2402](#), Idaho Code. It is legislative intent that the Idaho digital learning academy operate and be recognized not as a state agency or department, but as a governmental entity whose creation has been authorized by the state, much in the manner as other single purpose districts.

(2) The legislature finds that it is in the best public interest to create the Idaho digital learning academy based on findings that indicate:

- (a) Technology continues to impact all facets of life, including the education of students of school age and adult learners;
- (b) Systems for delivery of education are as diverse as the learners;
- (c) Public school systems are seeking high quality educational choices within the public system, and are aligning curriculum and assessment with state achievement standards; and
- (d) The development of a comprehensive digital learning environment is cost prohibitive for individual school districts.

(3) The goal of the digital learning academy is to provide choice, accessibility, flexibility, quality and equity in curricular offerings for students in this state.

[33-5502, added 2002, ch. 105, sec. 1, p. 285; am. 2005, ch. 132, sec. 1, p. 420; am. 2008, ch. 119, sec. 1, p. 333.]

33-5503. ACADEMY BOARD OF DIRECTORS. (1) There is hereby created an academy board of directors which shall be responsible for the development and oversight of the Idaho digital learning academy.

(2) The academy board of directors shall be comprised of eight (8) voting members and one (1) nonvoting member as follows:

- (a) Three (3) members shall be superintendents, each elected to a three (3) year term and each representing two (2) educational classification regions as established by the state board of education. One (1) superintendent shall be elected from among the superintendents in regions one and two on a rotating term basis between the two (2) regions; one (1) superintendent shall be elected from among the superintendents in regions three and four on a rotating term basis between the two (2) regions; and one (1) superintendent shall be elected from among the

superintendents in regions five and six on a rotating term basis between the two (2) regions;

(b) Two (2) members shall be principals, each elected to a three (3) year term by the governing body of the Idaho association of school administrators;

(c) Two (2) members shall be citizens at-large who are not professional educators, appointed by the members of the academy board, each to a term of three (3) years;

(d) The state superintendent of public instruction shall be a voting member and shall serve concurrently with the term of office to which the state superintendent is elected; and

(e) One (1) member shall be an ex officio, nonvoting member appointed by the academy board of directors to serve as secretary to the academy board.

(3) For purposes of establishing staggered terms of office, the initial term of office for the superintendent position representing educational classification regions one and two shall be one (1) year, and thereafter shall be three (3) years. The initial term of office for the superintendent position representing educational classification regions three and four shall be two (2) years, and thereafter shall be three (3) years. The superintendent position representing educational classification regions five and six shall be three (3) years. The initial term of office for one (1) principal position shall be one (1) year and thereafter shall be three (3) years, and the initial term of office for the other principal position shall be two (2) years and thereafter shall be three (3) years. The initial term of office for one (1) member at-large shall be one (1) year and thereafter shall be three (3) years, and the term of office for the other member at-large shall be three (3) years.

(4) No voting member shall serve for more than two (2) consecutive full terms. Members of the board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve the unexpired portion of such term.

(5) The board shall meet in person at least three (3) times annually; none of these three (3) meetings shall be conducted by telephone or video conferencing.

[33-5503, added 2002, ch. 105, sec. 1, p. 285; am. 2008, ch. 119, sec. 2, p. 333; am. 2009, ch. 55, sec. 2, p. 157.]

33-5504. DUTIES OF THE ACADEMY BOARD OF DIRECTORS. The board shall be responsible for ensuring that academy procedures and courses are in compliance with the rules of the state board of education and applicable statutes of the state of Idaho. In addition, the board shall:

(1) Recommend policies to be established by rule of the state board for effecting the purposes of this chapter.

(2) Employ or contract with staff as necessary and purchase such supplies and equipment as are necessary to implement the provisions of this chapter, which purchases shall be exempt from the state procurement act in [chapter 92, title 67](#), Idaho Code.

(3) To enter into contracts with any other governmental or public agency whereby the board agrees to render services to or for such agency in exchange for a charge reasonably calculated to cover the costs of rendering such service.

(4) To accept, receive and utilize any gifts, grants or funds and personal and real property that may be donated to it for the fulfillment of the purposes outlined in this chapter.

(5) Employ or contract with necessary faculty and teaching staff who are fully certificated Idaho teachers or administrators, to design and deliver planned curriculum content. The academy shall be exempt from the provisions of sections [33-513](#), [33-514](#), [33-514A](#), [33-515](#) and [33-515A](#), Idaho Code, and shall be exempt from [chapter 53, title 67](#), Idaho Code. All teaching and educational staff of the academy shall be exempt, at will employees. The number of such staff shall largely be dictated by the number of courses under development, the number of courses offered, and the number of students participating in academy programs.

(6) Obtain housing where actual operations of the academy are conducted by academy staff.

(7) Contract with a service provider for delivery of academy courses online which shall be accessible twenty-four (24) hours a day, seven (7) days a week.

(8) Ensure that the academy is accredited as established by rule of the state board of education.

(9) Develop policy for earning credit in courses based on mastery of the subject, demonstrated competency, and meeting the standards set for each course.

(10) Provide for articulating the content of certain high school courses with college and university courses in order to award both high school and undergraduate college credit.

(11) Develop policies and practices which provide strict application of time limits for completion of courses.

(12) Develop policies and practices on accountability, both by the student and the teacher, and in accordance with the provisions of section [33-5507](#), Idaho Code.

(13) Manage the moneys disbursed to the academy board from the superintendent.

(14) Set fees charged to school districts for student participation; fees charged for summer school; and fees charged to students and adults for professional development offerings.

(15) Contract with a certified public accounting firm to conduct an annual audit of the Idaho digital learning academy.

[33-5504, added 2002, ch. 105, sec. 1, p. 286; am. 2003, ch. 306, sec. 1, p. 841; am. 2005, ch. 132, sec. 2, p. 421; am. 2008, ch. 119, sec. 3, p. 334; am. 2016, ch. 289, sec. 10, p. 811.]

33-5504A. GOVERNMENTAL ENTITY. (1) The Idaho digital learning academy shall be a governmental entity as provided in section [33-5502](#), Idaho Code. For the purposes of section [59-1302](#)(15), Idaho Code, the Idaho digital learning academy created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section [63-36220](#), Idaho Code, sales to or purchases by the Idaho digital learning academy are exempt from payment of the sales and use tax. The Idaho digital learning academy, its employees and its board of directors are subject to the following provisions in the same manner as a traditional public school and the board of trustees of a school district:

(a) Sections [18-1351](#) through [18-1362](#), Idaho Code, on bribery and corrupt influence, except as provided by section [33-5204A](#)(2), Idaho Code;

- (b) [Chapter 5, title 74](#), Idaho Code, on prohibitions against contracts with officers;
- (c) [Chapter 4, title 74](#), Idaho Code, on ethics in government;
- (d) [Chapter 2, title 74](#), Idaho Code, on open public meetings;
- (e) [Chapter 1, title 74](#), Idaho Code, on disclosure of public records;
- (f) Section [33-1216](#), Idaho Code, on sick and other leave;
- (g) Section [33-1217](#), Idaho Code, on accumulation of unused sick leave;
- (h) Section [33-1218](#), Idaho Code, on sick leave in excess of statutory minimum amounts; and
- (i) Section [33-1228](#), Idaho Code, on severance allowance at retirement.

(2) The Idaho digital learning academy may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of traditional public school districts and other public schools, including those provided by [chapter 9, title 6](#), Idaho Code.

(3) The Idaho digital learning academy shall secure insurance for liability and property loss.

(4) It shall be unlawful for:

(a) Any director to have pecuniary interest directly or indirectly in any contract or other transaction pertaining to the maintenance or conduct of the Idaho digital learning academy, or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection (4). The board of directors of the Idaho digital learning academy may accept and award contracts involving the Idaho digital learning academy to businesses in which the director or a person related to him by blood or marriage within the second degree of consanguinity has a direct or indirect interest, provided that the procedures set forth in section [18-1361](#) or [18-1361A](#), Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of the Idaho digital learning academy for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to the Idaho digital learning academy, shall not be deemed to be a contract pertaining to the maintenance or conduct of the Idaho digital learning academy within the meaning of this section; nor shall the payment of compensation by the Idaho digital learning academy board of directors to any bank or trust company for services rendered in the transaction of any banking business with the Idaho digital learning academy board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

(b) The board of directors of the Idaho digital learning academy to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or will require, the payment or delivery of any Idaho digital learning academy funds, moneys or property to such spouse, except as provided in section [18-1361](#) or [18-1361A](#), Idaho Code.

(5) When any relative of any director, or relative of the spouse of a director related by affinity or consanguinity within the second degree, is to be considered for employment in the Idaho digital learning academy, such director shall abstain from voting in the election of such relative, and shall be absent from the meeting while such employment is being considered and determined.

[33-5504A, added 2008, ch. 119, sec. 4, p. 335; am. 2009, ch. 55, sec. 3, p. 158; am. 2015, ch. 141, sec. 73, p. 434.]

33-5504B. EXPENDITURES -- BUDGET. (1) There is hereby created in the state treasury the Idaho digital learning academy fund. The fund shall consist of appropriations, fees, grants, gifts or moneys from any other source. The state treasurer shall invest all idle moneys in the fund and interest earned on such investments shall be retained by the fund.

(2) On or before the first Monday in July, there will be held at the time and place determined by the Idaho digital learning academy board, a budget meeting and public hearing upon the proposed budget of the Idaho digital learning academy. Notice of the budget meeting and public hearing shall be posted at least ten (10) full days prior to the date of the meeting in at least one (1) conspicuous place to be determined by the Idaho digital learning academy board of directors. The place, hour and day of the hearing shall be specified in the notice, as well as the place where such budget may be examined prior to the hearing. On or before the first Monday in July a budget for the Idaho digital learning academy shall be agreed upon and approved by the majority of the Idaho digital learning academy board of directors.

[33-5504B, added 2008, ch. 119, sec. 5, p. 337.]

33-5505. DEFINITIONS. As used in this chapter:

(1) "Academy board," also referred to in this chapter as "the board" means the board of directors of the Idaho digital learning academy as such board is created in section [33-5503](#), Idaho Code.

(2) "Host district" means an Idaho school district where the fiscal operations of the Idaho digital learning academy are housed until January 1, 2009.

(3) "Idaho digital learning academy" means an online educational program organized as a fully accredited school with statewide capabilities for delivering accredited courses to Idaho resident students at no cost to the student unless the student enrolls in additional courses beyond full-time enrollment. Participation in the academy by public school students shall be in compliance with academy and local school district policies. Adult learners and out-of-state students shall pay tuition commensurate with rates established by the state board with the advice of the superintendent, and such funds shall be included in the budget and audit of the academy's fiscal records.

(4) "State board" means the Idaho state board of education. The board is authorized and directed, with the advice and recommendation of the academy board of directors, to promulgate rules to implement the provisions of this chapter.

(5) "Superintendent" means the Idaho state superintendent of public instruction.

[33-5505, added 2002, ch. 105, sec. 1, p. 287; am. 2003, ch. 306, sec. 2, p. 842; am. 2005, ch. 132, sec. 3, p. 422; am. 2008, ch. 119, sec. 6, p. 337.]

33-5506. COURSES -- DEVELOPMENT -- BROKERED -- CREDIT -- ACCREDITATION. Online courses shall reflect state of the art in multimedia-based digital learning. Courses offered shall be of high quality in appearance

and presentation, and shall be designed to meet the needs of all students regardless of the student's level of learning.

(1) All courses developed under the auspices of the academy are the property of the academy. Courses may be developed by qualified Idaho teachers who possess the necessary technical background and instructional expertise. Such persons may also be hired to deliver the course online. Nothing shall prevent the board from providing additional training to teachers in the development and online delivery of courses.

(2) At the discretion of the board with consideration for necessity, convenience and cost effectiveness, brokered courses developed by outside sources may be obtained for use by the academy; however, such courses shall be taught online by Idaho teachers unless special circumstances require a waiver of this requirement.

(3) Grade percentages in courses shall be based on such criteria as mastery of the subject, demonstrated competency, and meeting the standards set for each course.

(4) All courses shall meet criteria established by the state of Idaho as necessary for accreditation of the academy.

[33-5506, added 2002, ch. 105, sec. 1, p. 287; am. 2008, ch. 119, sec. 7, p. 338.]

33-5507. REGISTRATION -- ACCOUNTABILITY. (1) A student may register with the academy upon recommendation from a traditional school counselor or administrator, or may register directly with the academy if there is no current public school affiliation. However, in order for coursework completed through the academy to be recorded on the student's transcript, the student shall indicate which school is to receive and record credits earned.

(2) Students who register for courses shall provide the name of a responsible adult who shall be the contact person for the academy in situations which require consultation regarding the student's conduct and performance. A designated responsible adult for students with a school affiliation may be a teacher, a counselor or a distance learning coordinator. For home schooled students, a parent or guardian may be designated.

(3) Policies of accountability as established by rule of the state board shall address the special conditions which exist in an environment where there is reduced face-to-face contact between student and teacher; where students access courses at any time of day, from any location and at the student's own pace; where online etiquette and ethics should be clearly understood and required of all participants; and where all students' participation is monitored by online teachers and academy personnel.

(4) Policies shall be established by rule of the state board for student-related issues including taking exams, proctored or unproctored; ensuring that the work is being done by the student; and ensuring that ethical conduct and proper etiquette are always observed by all participants.

[33-5507, added 2002, ch. 105, sec. 1, p. 288; am. 2005, ch. 132, sec. 4, p. 422; am. 2008, ch. 119, sec. 8, p. 338.]

33-5508. FUNDING. (1) Funding for the infrastructure of the program shall be provided pursuant to section [33-1020](#), Idaho Code. The superintendent shall disburse the funds to the Idaho digital learning academy board of directors who shall use the moneys to develop courses and maintain operations of the academy.

(2) Additional funding for course offerings through the Idaho digital learning academy shall be added to the Idaho digital learning academy budget by charging fees to the school districts for student participation. These fees shall be established annually by the Idaho digital learning academy board of directors and shall reflect the various types of course offerings available. Fees for summer school and professional development offerings to students and adults shall also be established by the Idaho digital learning academy board of directors.

[33-5508, added 2002, ch. 105, sec. 1, p. 288; am. 2003, ch. 306, sec. 3, p. 843; am. 2007, ch. 353, sec. 13, p. 1049.]

33-5509. DIGITAL LEARNING ACADEMY A STATE DEPARTMENT FOR PURPOSES OF RISK MANAGEMENT. For risk management purposes, the Idaho digital learning academy shall be considered a state department for purposes of risk management pursuant to [chapter 57, title 67](#), Idaho Code, and the department of administration shall treat it as such.

[33-5509, added 2006, ch. 358, sec. 1, p. 1091.]